

### REMARKS

Applicants respectfully request reconsideration of this application as amended. Claims 1-27 remain pending in the application. Claims 16 and 22 have been amended. No claims have been canceled.

#### ***Objection to Abstract***

Attached is the correction to the Abstract as requested. No new matter has been added.

#### ***Claim Objections***

Claims 16 and 22 were objected to because of informalities. Applicants submit that claims 16 and 22, as amended, are allowable and respectfully request the objections to the claims be withdrawn.

#### ***Rejections under 35 USC §102***

Claims 1-27 were rejected under 35 USC 102(e) as being clearly anticipated by US Patent No. 6,041,308 of Walker et al. ("Walker").

Applicants respectfully submit that the Office Action does not properly communicate the basis for rejection to claims 1-27. "The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity" (MPEP §706). 37 CFR 1.104(c)(2) states:

"In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command.

**When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The**

**pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.”**

The abstract of Walker states:

A system and method are disclosed for encouraging buyers to submit CPOs to a CPO management system for a desired product. The CPO management system processes each received CPO to determine whether one or more sellers are willing to accept a given CPO. The disclosed CPO management system compensates buyers if the buyer's conditional purchase offer is rejected, or expires before an acceptance is received. If a CPO is rejected by the sellers, or has expired before an acceptance is received, the CPO management system evaluates one or more stored compensation offers to determine if the buyer is eligible for rejection compensation. The compensation offers may optionally require that the conditional purchase offer satisfies one or more additional predefined eligibility criteria. If the predefined criteria is met, the rejection compensation is provided to the buyer. The rejection compensation can include, for example, (i) a cash award, (ii) a prize, or (iii) a coupon or credit that may be redeemed for a discount against future transactions, thereby encouraging future use.

In contrast, Claim 1 claims a method for a network-based facility, the method comprising:

facilitating submission of a complaint to a network-based facility, the complaint being related to a party in a failed transaction;  
facilitating a resolution of the complaint; and

updating a record associated with the party if the complaint is not resolved, the record indicating a count of failed transactions related to the party.

On its face, Walker does not disclose each and every element of the invention. Specifically, Walker appears to disclose a system and method for encouraging buyers to submit CPOs to a CPO management system for a desired product (see Walker, col. 2, lines 35-37). Clearly, Walker shows and describes an invention other than that claimed by Applicants (e.g., Walker at least does not disclose “facilitating submission of a complaint” and “facilitating a resolution of the complaint” as claimed).

Accordingly, Applicants submit that the Office Action fails to clearly explain the pertinence of the Walker reference and show where the prior art reference teaches all the claim limitations of claims 1-27. Preferably with reference to the relevant column or page number(s) and line number(s). Therefore, Applicants respectfully request *the pertinence* of the Walker reference and *the particular part relied on* in Walker for rejecting claims 1-27 under 35 USC 102(e). (see 37 CFR 1.104, MPEP §706).

Otherwise, Applicants respectfully request the rejection be withdrawn and the claims as amended be allowed. The Examiner is invited to call the undersigned at 408-720-8300 if there remains any issue with allowance of this case.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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